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STRADDLING FISH STOCKS AND
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DRAFT AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Prepared by the Chairman of the Conference

DRAFT AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

The States Parties to this Agreement,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Calling for more effective enforcement by flag, port and coastal States of measures adopted for the conservation and management of such stocks,

Seeking to address the problems identified in Agenda 21, Chapter 17, Programme Area C, namely that the management of high seas fisheries is inadequate in many areas and that some resources are over-utilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems, and minimize the risk of long-term or irreversible effects of fishing operations,

Recognizing the need for specific assistance including financial, scientific and technological assistance in order that developing States can participate effectively in the conservation, management and sustainable utilization of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement relating to the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

Use of terms and scope

1. For the purposes of this Agreement:

(a) "conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(b) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

(d) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

2. This Agreement applies mutatis mutandis to the entities referred to in article 305, paragraph 1(c), (d), (e) and (f) of the Convention which become Parties to this Agreement in accordance with the conditions relevant to each and, to that extent, "States Parties" refers to those entities.

3. The provisions of this Agreement shall apply mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2

Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3

Application

1. This Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction except that the provisions of articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purposes of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.

3. In the implementation of articles 5, 6 and 7, consideration shall be given to the capacity of developing States to apply the provisions of those articles within areas under national jurisdiction and their need for assistance as provided for herein. To this end, Part VII shall apply, mutatis mutandis, in respect of areas under national jurisdiction.

Article 4

Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. The provisions of this Agreement shall be interpreted and applied in the context of and in a manner consistent with the provisions of the Convention.

PART II

CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 5

General principles

Coastal States and States fishing on the high seas, in order to conserve and manage straddling fish stocks and highly migratory fish stocks, shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt conservation and management measures to ensure long-term sustainability and promote optimum utilization of straddling fish stocks and highly migratory fish stocks;

(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) apply the precautionary approach in accordance with article 6;

(d) assess the impacts of fishing, other human activities and environmental factors on target species and species belonging to the same ecosystem or dependent upon or associated with the target species;

(e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or dependent on or associated with the target species, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

(f) promote the development and require the use of selective, environmentally safe and cost-effective fishing gear and techniques in order to minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species (both fish and non-fish species) (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species;

(g) protect biodiversity in the marine environment;

(h) take measures to prevent or eliminate over-fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable utilization of fisheries resources;

(i) take into account the interests of artisanal and subsistence fishers;

(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities, inter alia, on position, catch of target and non-target species and fishing effort, as set out in Annex 1, as well as information from national, regional and international research programmes;

(k) promote and conduct scientific research and develop appropriate technology in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6

The application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. In applying the precautionary approach, States shall:

(a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

(b) apply the guidelines set out in Annex 2 and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stock(s), reference points, stock condition in relation to such reference points, levels and distributions of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, adopt plans as necessary to ensure the conservation of such species and protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that such reference points are exceeded, States shall, without delay, take the additional conservation and management action determined under paragraph 3(b) to restore the stock(s).

5. If a natural phenomenon has a significant adverse impact on the status of straddling fish stock(s) or highly migratory fish stock(s), the relevant coastal States and States fishing those stock(s) on the high seas shall, directly or through the relevant subregional or regional fisheries management organization or arrangement, cooperate for the adoption, without delay, of emergency conservation and management measures to ensure that fishing activity does not exacerbate the adverse impact of the natural phenomenon on the stock(s). Such emergency measures shall be temporary in nature and shall be based on the best scientific evidence available.

6. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject those stocks and species to enhanced monitoring in order to review regularly their status and the efficacy of conservation and management measures and shall revise those measures in the light of new information.

7. For new or exploratory fisheries, States shall establish conservative conservation and management measures as soon as possible, including, inter alia, catch and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fishery on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented, which, if appropriate, allow for the gradual development of the fishery.

Article 7

Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal State(s) and the State(s) whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas areas;

(b) with respect to highly migratory fish stocks, the relevant coastal State(s) and the other State(s) whose nationals fish in the region for these stocks shall cooperate directly or through the appropriate mechanisms for cooperation provided for in Part III with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures taken on the high seas and those taken within areas under national jurisdiction shall be compatible in order to ensure conservation and management of the stocks overall. To this end coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of straddling fish stocks and highly migratory fish stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures established in accordance with article 61 of the Convention in respect of the same stock(s) by coastal States within areas under national jurisdiction and ensure that measures established in respect of the high seas do not undermine the effectiveness of those measures established in respect of the same stock(s) by coastal States in areas under national jurisdiction;

(b) take into account previously agreed measures established in accordance with the Convention for the same stock(s) by relevant coastal States and States fishing on the high seas in respect of the high seas;

(c) take into account the biological unity and other characteristics of the stock(s) and the relationships between the distribution of the stock(s), the fisheries and the geographical particularities of the region, including the extent to which the stock(s) occur and are fished in areas under national jurisdiction;

(d) take into account the respective dependence of the coastal State(s) and the State(s) fishing on the high seas on the stock(s) concerned; and

(e) ensure that the measures taken do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for settlement of disputes provided for in Part VIII of this Agreement without prejudice to the provisions of article 31.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that States concerned are unable to agree on provisional arrangements, any State concerned may submit the dispute, for the purpose of obtaining provisional measures, in accordance with the procedures for the settlement of disputes provided for in Part VIII of this Agreement.

6. Such provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of the final agreement, and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through the appropriate subregional or regional fisheries organization or arrangement, of the measures adopted by such coastal States for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through the appropriate subregional or regional fisheries organization or arrangement, of the measures adopted by such fishing States for regulating the activities of vessels flying their flag which fish for straddling fish stocks and highly migratory fish stocks on the high seas.

PART III

MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8

Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stock(s).

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the stocks concerned may be under threat of over-exploitation or where a new fishery is being pursued for the stock(s). To this end consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stock(s). Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming a member of or a party to the subregional or regional fisheries management organization or arrangement, or by agreeing to apply the conservation and management measures established by such an organization or arrangement. In accordance with its terms of participation, the organization or arrangement shall be open to all States having an interest in the fisheries concerned on a non-discriminatory basis.

4. Only those States that are members of or parties to a subregional or regional fisheries management organization or arrangement, or that agree to apply the conservation and management measures established by that organization or arrangement, shall have access to the fishery to which those conservation and management measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for particular straddling fish stock(s) or highly migratory fish stock(s), relevant coastal States and States fishing on the high seas for such stock(s) in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock(s) and participate in the work of such organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with the member States thereof. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9

Regional fisheries management organizations or arrangements

In establishing subregional or regional fisheries management organizations or arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stock(s) to which conservation and management measures shall apply, taking into account the biological characteristics of the stock(s) concerned and the nature of the fisheries involved;

(b) the area of application taking into account the provisions of article 7, paragraph 1 and the characteristics of the region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any existing fisheries organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stock(s) including, where appropriate, the establishment of a scientific advisory body.

Article 10

Functions of regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

(a) agree on and comply with conservation and management measures to ensure long-term sustainability of the stock(s);

(b) agree, as appropriate, on allocation of participatory rights such as allocations of allowable catch or levels of fishing effort;

(c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;

(d) obtain and evaluate scientific advice and review the status of the stock(s) and assess the impact of fishing on non-target and associated or dependent species;

(e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stock(s);

(f) compile and disseminate accurate and complete statistical data, as described in Annex 1 to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;

(h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(i) agree on means by which the fishing interests of new members of, or participants in, the organization or arrangement will be accommodated;

(j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;

(k) promote the peaceful settlement of disputes in accordance with Part VIII of this Agreement;

(l) ensure the full cooperation of their relevant national agencies and industries in the work of the subregional or regional fisheries management organization or arrangement; and

(m) provide for transparency in decision-making and other activities of the subregional or regional fisheries management organization or arrangement.

Article 11

Strengthening existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 12

Collection and provision of information and cooperation in scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end States shall:

(a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks in accordance with the provisions of Annex 1;

(b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

(c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate directly or through subregional or regional fisheries management organizations or arrangements to:

(a) agree on the specification of data and the format in which those data are to be provided to subregional or regional fisheries management organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

(b) develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States, directly or through relevant international organizations, shall cooperate to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end a State or organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and dissemination to any interested States of the results of that research, and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 13

Enclosed and semi-enclosed seas

In implementing the provisions of this Agreement in respect of straddling fish stocks and highly migratory fish stocks in an enclosed or semi-enclosed sea, States shall take into account the geographical and ecological characteristics of that sea and shall also act in a manner consistent with the provisions of Part IX and other relevant provisions of the Convention.

Article 14

Areas of high seas surrounded entirely by areas under the national jurisdiction of a single State

1. States whose nationals fish for straddling fish stocks and highly migratory fish stocks in an area of the high seas which is surrounded entirely by an area under the national jurisdiction of a single State shall cooperate with that State to establish conservation and management measures in respect of those stock(s) for the high seas area. Having regard to the geographical and ecological characteristics of the area, States shall pay special attention, pursuant to article 7, to the establishment of compatible conservation and management measures for such stock(s) and shall ensure that measures established in respect of the high seas take into account the rights, duties and interests of the coastal State under the Convention. They shall make every effort to agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. If, within a reasonable period of time, the fishing State(s) concerned and the coastal State are unable to agree on conservation and management measures in accordance paragraph 1, they shall apply the provisions of paragraphs 4, 5 and 6 of article 7 relating to the establishment of provisional measures.

Article 15

Transparency

1. Subregional and regional fisheries management organizations or arrangements shall ensure transparency in their decision-making and other activities.

2. Representatives from other intergovernmental organizations and from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to participate in meetings of such bodies as observers or otherwise, as appropriate, in accordance with the procedures of the subregional or regional fisheries management organization or arrangement concerned. Intergovernmental organizations and non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall have timely access to the records and reports of such fisheries organizations or arrangements, subject to the procedural rules on access to such information.

Article 16

New participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the stock(s) and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stock(s), to the collection and provision of accurate data and to the conduct of scientific research on the stock(s);

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stock(s);

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

PART IV

NON-PARTICIPANTS

Article 17

States which are not members of or parties to subregional or regional fisheries management organizations or arrangements

1. Where a State is not a member of or a party to a subregional or regional fisheries management organization or arrangement, or it does not otherwise agree to apply the conservation and management measures established by that organization or arrangement, that State is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant stock(s).

2. A State which is not a member of or a party to a subregional or regional fisheries management organization or arrangement, or which does not otherwise agree to apply the conservation and management measures established by that organization or arrangement shall not authorize vessels flying its flag to operate in fisheries which are subject to conservation and management measures

established by that organization or arrangement in accordance with the Convention and this Agreement.

3. States which are members of, or parties to, a subregional or regional fisheries management organization or arrangement shall, jointly or individually, request the fishing entities referred to in article 1, paragraph 3 which have fishing vessels in the relevant area, to cooperate fully with such organization or arrangement in implementing the conservation and management measures of that organization or arrangement, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stock(s).

4. States which are members of, or parties to, a subregional or regional fisheries management organization or arrangement shall exchange information with respect to the activities of fishing vessels which fly the flags of States which are neither members of, nor participate in, the organization or arrangement and which are operating in the fishery for the relevant stock(s). They shall take measures consistent with the Convention and this Agreement to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V

RESPONSIBILITIES OF THE FLAG STATE

Article 18

Duties of the flag State

1. A flag State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity that undermines the effectiveness of those conservation and management measures.

2. The flag State shall authorize vessels flying its flag to be used for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and under the provisions of this Agreement.

3. Measures to be taken by the flag State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at a subregional, regional or global level;

(b) establishment of regulations to:

(i) prohibit fishing on the high seas by vessels that are not duly licensed or authorized to fish, or fishing on the high seas by such vessels otherwise than in accordance with the conditions of a licence, authorization or permit;

(ii) apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

(iii) require that vessels fishing on the high seas must carry the licence, authorization or permit on board the vessel at all times and must produce such licence, authorization or permit on demand for inspection by a duly authorized person; and

(iv) ensure that vessels flying its flag do not engage in unauthorized fishing within areas under the national jurisdiction of other States.

(c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any relevant laws of the flag State regarding release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

(e) requirements for recording and timely reporting of position, catch (target and non-target species), effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for catch verification (target and non-target species) through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities, by, inter alia:

(i) the implementation of national inspection schemes and regional inspection schemes in which the flag State is a participant, including requirements for such vessels to permit access by duly authorized inspectors from other States;

(ii) the implementation of national observer programmes and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the programme; and

(iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been regionally agreed;

(h) the regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) the regulation of fishing activities to ensure compliance with subregionally or regionally or globally agreed measures including those relating to minimizing non-target catches.

4. Where there is a regionally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI

COMPLIANCE AND ENFORCEMENT

Article 19

Compliance and enforcement by flag States

1. A flag State shall ensure compliance by vessels flying its flag with subregionally, regionally or globally agreed measures, rules and regulations for the conservation and management of straddling fish stocks and highly migratory fish stocks adopted consistent with the Convention and this Agreement. To this end, a flag State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessel(s) concerned, and report promptly to the State alleging the violation and the relevant subregional, regional or global organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, activities and fishing operations in the area of an alleged violation;

(d) if satisfied that sufficient evidence is available to enable proceedings to be brought in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel; and

(e) ensure that, where it has been established, in accordance with its laws, that a vessel flying its flag has been involved in the commission of a serious breach of subregional or regional conservation and management measures, the vessel does not fish on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the breach have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur, and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, cancellation or suspension of authorizations to serve as masters or officers on such vessels.

Article 20

International cooperation in enforcement

1. A flag State conducting an investigation of an alleged violation may request the assistance of any other State whose cooperation may assist in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.

2. A flag State may undertake investigations directly, in cooperation with other interested State(s), or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations should be provided to all States having an interest in, or affected by, the alleged violation.

3. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional or regional conservation and management measures.

4. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of subregional or regional conservation and management measures.

5. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking

appropriate enforcement action in such cases, and may authorize the coastal State to board and inspect the vessel on the high seas. The provisions of this paragraph are without prejudice to the provisions of article 111 of the Convention.

Article 21

Regional agreements and arrangements for compliance and enforcement

1. A flag State shall cooperate directly, or through subregional or regional fisheries management organizations or arrangements, with relevant States to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks established in accordance with the Convention and this Agreement.

2. In any high seas area covered by a subregional or regional fisheries management organization or arrangement for the purpose of enforcement of the conservation and management measures established for straddling fish stocks or highly migratory fish stocks by that organization or arrangement in accordance with the Convention and this Agreement, a State Party that is a member of, or a party to, such organization or arrangement, shall have the right for its duly authorized and identified inspectors to board and inspect fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of, or a party to, the subregional or regional fisheries management organization or arrangement.

3. States shall develop procedures, consistent with the provisions of this article, governing the exercise of the right of boarding and inspection referred to in paragraph 2 through the relevant subregional or regional fisheries management organization or arrangement, including procedures for the authorization and identification of inspectors by States Parties that are members of, or parties to, the organization or arrangement, and for the designation of official contacts for the purposes of notifications under this article. Within the context of subregional and regional fisheries management organizations and arrangements, boarding and inspection shall be conducted in accordance with such agreed procedures.

4. Where, following a boarding and inspection, there are reasonable grounds for believing that a vessel has engaged in any activity which undermines the effectiveness of or has otherwise violated conservation and management measures referred to in paragraph 2, the inspecting State shall promptly notify the flag State and the relevant organization or arrangement of the alleged violation. The flag State shall either:

(a) promptly fulfil its obligations under this Agreement to take control of the vessel, investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

(b) authorize the appropriate authorities of the State conducting the boarding and inspection to take charge of the vessel for enforcement purposes. The flag State may, consistent with its obligations under this Agreement, subject its authorization to reasonable conditions.

5. The flag State shall respond to the notification by the inspecting State referred to in paragraph 4 within three working days of receipt of the notification. Pending a response from the flag State, the duly authorized and identified inspectors of the inspecting State may remain on board the vessel and secure evidence until such time as the flag State takes control of the vessel.

6. If the flag State fails to respond within three working days of receipt of the notification, the inspecting State may take charge of the vessel and may require the vessel to proceed without delay to the nearest appropriate port for further investigation.

7. If the flag State refuses to take control of the vessel, or refuses to authorize the inspecting State to take charge of the vessel for enforcement purposes, the inspecting State may proceed to take charge of the vessel and may require the vessel to proceed without delay to the nearest appropriate port for further investigation.

8. The inspecting State shall inform the flag State of the results of any further investigation and, if the evidence so warrants, may seek the concurrence of the flag State in prosecuting the vessel on specified charges of violating subregional or regional conservation and management measures. If the flag State withholds its consent for the inspecting State to prosecute, it shall give its reasons for doing so to the inspecting State.

9. Notwithstanding the other provisions of this article, the flag State may, at any time, take control of the vessel in order to investigate and, if evidence so warrants, take enforcement action with respect to an alleged violation. If the flag State considers that enforcement action has been taken against its vessel without its consent, it may invoke the procedures for settlement of disputes provided for in Part VIII of this Agreement.

10. The inspecting State may also invoke the procedures for settlement of disputes provided for in Part VIII of this Agreement where it considers that the flag State has failed to fulfil its obligations under this Agreement to investigate and take enforcement action in respect of an alleged violation by a vessel flying its flag.

11. Where action taken by a State other than the flag State includes detention of a vessel or its crew, the vessel or crew shall promptly be released upon posting of a reasonable bond or other financial security, and the provisions of article 292 of the Convention shall apply.

12. Action taken by States in respect of vessels which have engaged in activities which undermine the effectiveness of or otherwise violated subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

13. States Parties which are members of, or parties to, a subregional or regional fisheries management organization or arrangement may take action in accordance with international law, including through recourse to subregionally or regionally agreed procedures established for this purpose, to prevent vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate enforcement action is taken by the flag State or by the State authorized to do so by the flag State.

14. In applying any subregionally or regionally agreed procedures for boarding and inspection, States shall ensure that interference with fishing operations is minimized and, to the extent practicable, that the quality of the catch on board is maintained.

15. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may take such action as is necessary to board and inspect the vessel. Where evidence so warrants, the State may institute proceedings in accordance with international and national law.

16. States shall give due publicity to the measures adopted by subregional or regional fisheries management organizations or arrangements concerning conservation and management of straddling fish stocks and highly migratory fish stocks.

17. Flag States shall provide such information as may be required to be entered into international records or regional registers relating to vessels fishing or authorized to fish on the high seas.

18. The provisions of this article are without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws irrespective of prior proceedings by another State.

Article 22

Boarding and inspection by port States

1. A port State has the right to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports and offshore terminals.

3. States may establish regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner that undermines the effectiveness of subregional or regional conservation and management measures on the high seas.

4. Nothing in this article affects the sovereignty of States over ports in their territory in accordance with international law.

PART VII

REQUIREMENTS OF DEVELOPING STATES

Article 23

Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation, management and development of fisheries for straddling fish stocks and highly migratory fish stocks. To this end, States shall, directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission for Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

(a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale, artisanal and women fishworkers, as well as indigenous peoples in developing States, particularly small island developing States; and

(c) the need to ensure that the measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 24

Forms of cooperation with developing States

1. States shall, either directly or through subregional, regional or global organizations, cooperate to:

(a) enhance the ability of developing States, in particular the least-developed amongst them and small island developing States, to conserve, manage and develop their own national fisheries for straddling fish stocks and highly migratory fish stocks;

(b) assist developing States, in particular the least-developed amongst them and small island developing States, to enable them to participate in high seas fisheries for straddling fish stocks and highly migratory fish stocks, including facilitating access to such fisheries subject to the provisions of articles 5 and 16; and

(c) facilitate the participation of developing countries in subregional or regional fisheries management organizations or arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Specific assistance shall, inter alia, be directed towards:

(a) improved conservation and management of fisheries through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 25

Special assistance for fisheries conservation management and development

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international and regional organizations should assist developing States in establishing new subregional or regional fisheries organizations or arrangements or strengthening existing organizations or arrangements concerned with the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII

PEACEFUL SETTLEMENT OF DISPUTES

Article 26

Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 27

Prevention of disputes

All States shall cooperate in order to prevent disputes. To this end States shall agree on efficient and expeditious decision-making procedures within subregional or regional fisheries management organizations or arrangements and strengthen existing decision-making procedures as necessary.

Article 28

Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the matter to an ad hoc expert panel established by the parties to the dispute. The panel shall confer with the States concerned and shall endeavour to resolve the matter expeditiously without recourse to binding procedures for the settlement of disputes.

Article 29

Settlement of disputes

1. The provisions relating to the settlement of disputes under Part XV of the Convention shall apply to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not such States are also States Parties to the Convention.

2. The provisions relating to the settlement of disputes under Part XV of the Convention shall also apply to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are a party, including any dispute concerning the conservation and management of such stocks, whether or not such States are also States Parties to the Convention.

3. Where a State Party to the Convention has, pursuant to article 287 of the Convention, made a written declaration choosing one or more of the means for the settlement of disputes set out in sub-paragraphs 1(a)-(d) of article 287 of the Convention, that declaration shall operate as a declaration under article 287 of the Convention for the purposes of the resolution of disputes under paragraphs 1 and 2 of this article, unless the State Party concerned, when signing, ratifying or acceding to this Agreement, or at any time thereafter, indicates another choice for the purposes of the resolution of disputes under paragraphs 1 and 2 of this article by means of a written declaration. Such declaration shall operate as a declaration under article 287 of the Convention for the purposes of the resolution of disputes under paragraphs 1 and 2 of this article.

4. When signing, ratifying or acceding to this Agreement, or at any time thereafter, a State which is not a State Party to the Convention shall be free to choose, by means of a written declaration, one or more of the means for the settlement of disputes set out in sub-paragraphs 1(a)-(d) of article 287 of the Convention. That declaration shall operate as a declaration under article 287 of the Convention for the purposes of the resolution of disputes under paragraphs 1 and 2 of this article.

5. Any court or tribunal to which a dispute arising under paragraph 1 or 2 of this article has been submitted shall apply the relevant provisions of the Convention, of this Agreement, and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the stock(s) concerned.

6. Each State Party accepts the jurisdiction of the court or tribunal that has jurisdiction in accordance with Part XV of the Convention as applied by this article for the purposes of the settlement of disputes under paragraphs 1 and 2 of this article.

Article 30

Provisional measures

1. Pending the resolution of a dispute in accordance with the provisions of this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on provisional arrangements, any party to the dispute may submit the dispute to a court or tribunal referred to in article 287 of the Convention.

2. The court or tribunal shall have jurisdiction to prescribe provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stock(s) in question, pending a final resolution of the dispute.

3. The court or tribunal shall also have jurisdiction to prescribe provisional measures in the circumstances specified under article 7, paragraph 5, and article 14, paragraph 2.

4. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist. Such measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

5. The court or tribunal shall forthwith give notice to the parties to the dispute and to such other States Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.

6. Pending the constitution of a tribunal to which a dispute is being submitted under this article, any court or tribunal agreed upon by the parties to the dispute or, failing such agreement within two weeks from the date of the request for provisional measures, the International Tribunal for the Law of the Sea may prescribe, modify or revoke provisional measures in accordance with this article. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with this article.

7. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

Article 31

Limitations on applicability of procedures for the settlement of disputes

The provisions of article 297 of the Convention shall apply also to this Agreement.

PART IX

GOOD FAITH AND ABUSE OF RIGHTS

Article 32

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

PART X

NON-PARTIES TO THIS AGREEMENT

Article 33

Non-parties to this Agreement

States Parties shall encourage non-parties to this Agreement to accede to it and to adopt laws and regulations consistent with its provisions. States Parties to this Agreement shall take measures consistent with this Agreement and international law to deter the activities of vessels which undermine the effective implementation of this Agreement.

PART XI

REPORTS ON DEVELOPMENTS IN RELATION TO CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY SPECIES AND REVIEW CONFERENCE

Article 34

Reports on developments in relation to conservation and management of straddling fish stocks and highly migratory fish stocks

At the second General Assembly following the date of adoption of this Agreement, and biennially thereafter, the Secretary-General shall submit a report to the General Assembly on developments in relation to the conservation and management of straddling fish stocks and highly migratory fish stocks. In compiling the report, the Secretary-General shall take into account information provided by States, the Food and Agriculture Organization of the United Nations and its fisheries bodies, other subregional and regional organizations and arrangements concerned with the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and relevant non-governmental organizations. The Secretary-General shall also report as required to the Commission on Sustainable Development.

Article 35

Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General shall convene a conference, with a view to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all those States and entities entitled to become parties to this Agreement as well as those entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions herein and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order to better address any continuing problems in fisheries for straddling fish stocks and highly migratory fish stocks.

PART XII

FINAL PROVISIONS

Article 36

Signature

This Agreement shall remain open for signature at United Nations Headquarters by the States and entities referred to in article 305, paragraph 1(a), (c), (d), (e) and (f) of the Convention for 12 months from the date of its adoption.

Article 37

Ratification, acceptance, approval and formal confirmation

This Agreement is subject to ratification, acceptance or approval by States and the other entities referred to in article 305, paragraph 1(a), (c), (d) and (e) of the Convention, and to formal confirmation, in accordance with Annex IX of the Convention, by the entities referred to in article 305, paragraph 1(f) of the Convention. The instruments of ratification, acceptance, approval or formal confirmation shall be deposited with the Secretary-General of the United Nations.

Article 38

Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 305, paragraph 1(a), (c), (d) and (e) of the Convention. Accession by the entities referred to in article 305, paragraph 1(f) of the Convention shall be in accordance with Annex IX of the Convention.

Article 39

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession.

2. For each State or entity that ratifies, accepts, approves or formally confirms the Agreement or accedes thereto after the deposit of the fortieth instrument of ratification, acceptance, approval, accession or formal confirmation this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification, acceptance, approval, accession or formal confirmation.

Article 40

Provisional entry into force

1. If, six months from its date of adoption, this Agreement has not entered into force, it shall be applied provisionally pending its entry into force by:

(a) States which have consented to its adoption, except any such State which before the expiry of six months from the date of adoption of this Agreement notifies the depositary in writing either that it will not so apply this Agreement or that it will consent to such application only upon subsequent signature or notification in writing;

(b) States and entities which sign this Agreement, except any such State or entity which notifies the depositary in writing at the time of signature that it will not so apply this Agreement;

(c) States and entities which consent to its provisional application by so notifying the depositary in writing;

(d) States which accede to this Agreement.

2. All such States and entities shall apply this Agreement provisionally in accordance with their national or internal laws and regulations, with effect from the date of signature, notification of consent or accession.

3. Provisional application shall terminate upon the date of entry into force of this Agreement.

Article 41

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 42

Declarations and statements

Article 41 does not preclude a State, when signing, ratifying or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State.

Article 43

Relation to other conventions and international agreements

1. This Agreement shall not alter the rights and obligations of States Parties which arise from other conventions and agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 44

Amendment

1. A State Party may, by written communication addressed to the Secretary-General, propose an amendment to this Agreement and request the convening of a conference to consider such proposed amendment. The Secretary-General shall circulate the communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the conference convened pursuant to paragraph 1 shall be the same as that applicable at the conference that has elaborated this Agreement, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus, and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature by States Parties for 12 months from the date of adoption, at United Nations Headquarters in New York, unless otherwise provided in the amendment itself.

4. Articles 37, 38, and 48 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of instruments of ratification or accession, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall be considered as Party to this Agreement as so amended.

Article 45

Denunciation

1. A State Party may, by written notification to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 46

Status of Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 44, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall have effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at a meeting of States Parties, the amendment procedures contained in article 44 shall apply.

Article 47

Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments thereto.

Article 48

Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto, have signed this Agreement.

DONE AT New York on _____, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

Annex 1

STANDARD REQUIREMENTS FOR COLLECTION AND SHARING OF DATA

General principles

1. The timely collection, compilation and analysis of data are fundamental to effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and ecologically related species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data should be maintained.

2. Assistance, including training, financial and technical assistance, shall be provided to developing countries in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing country scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Principles of data collection, compilation and exchange

3. The following general principles should be considered in defining the parameters for collection, compilation, and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishery (e.g. individual trawl tow, long-line set, school fished for pole-and-line and purse-seine, day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional fisheries organization or arrangement where one exists. Otherwise, States should cooperate to exchange data directly;

(d) States should agree, within the framework of subregional or regional fisheries organizations or arrangements, on the specification of data and the format in which they are to be provided, in accordance with the provisions of this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. The subregional or regional fisheries organizations or arrangement should request non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) subregional or regional fisheries organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries organization or arrangement should analyze the data separately or jointly, as appropriate.

Basic fishery data

4. States shall collect and make available to the relevant subregional or regional fisheries organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

(a) time series of catch and effort statistics by fishery and fleet;

(b) total catch in number and/or nominal weight [defined by FAO as: (landings + losses due to dressing, handling and processing - gains prior to landings) x conversion factors] by species (both target and non-target) as is appropriate to each fishery;

(c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and

(e) fishing location, date and time fished, and other statistics on fishing operations as appropriate.

5. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries organization or arrangement scientific information to support stock assessment including:

(a) length, weight and sex composition of the catch;

(b) other biological information supporting stock assessments such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Vessel data and information

6. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;

(b) vessel type;

(c) vessel specifications (e.g. material of construction, date built, registered length, gross registered tonnage, power of main engine(s), hold capacity, catch storage methods); and

(d) fishing gear description (e.g. type(s), gear specifications and quantity).

7. The flag State will collect the following information:

(a) navigation and position fixing aids;

(b) communication equipment and international radio call sign; and

(c) crew size.

Reporting

8. A flag State shall ensure that vessels flying its flag send to its national fisheries administration or where otherwise agreed, to the relevant subregional or regional fisheries organization or arrangement catch and effort log book data, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission.

Data verification

9. States or, as appropriate, subregional or regional fisheries management organizations or arrangements, should establish mechanisms for verifying fishery data, such as:

(a) position verification through vessel monitoring systems;

(b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;

(c) vessel trip, landing and transshipment reports; and

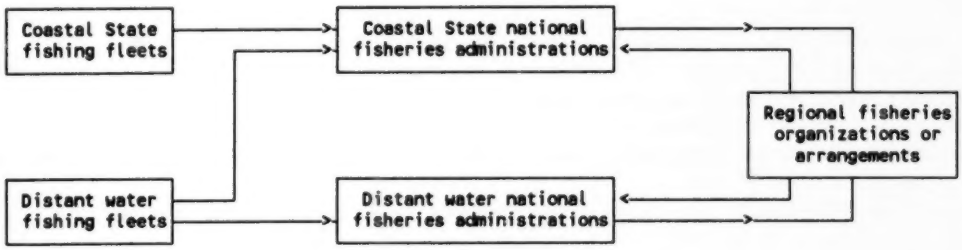
(d) port sampling.

Data exchange

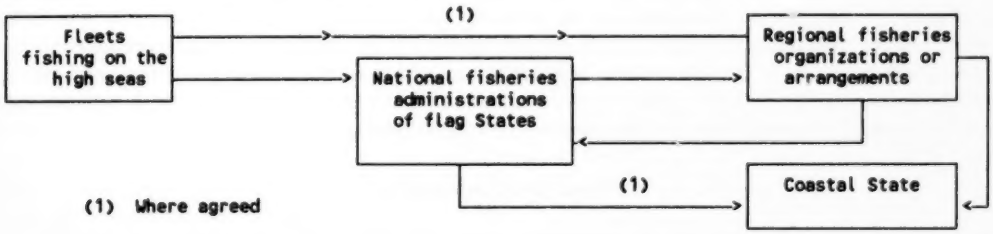
10. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries organizations or arrangements. Subregional or regional fisheries organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

11. Examples of the data flows described in paragraph 10 are illustrated below:

Data flow arrangements within EEZs


Coastal State fishing fleets
Coastal State national fisheries administrations
Regional fisheries organizations or arrangements
Distant water fishing fleets
Distant water national fisheries administrations

Data flow arrangements for high seas fishing operations



12. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations (FAO). Where a subregional or regional fisheries organization or arrangement does not exist, FAO may also do the same at a regional level by arrangement with the States concerned.

Annex 2

GUIDELINES FOR APPLICATION OF PRECAUTIONARY REFERENCE POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.

2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stock(s) can produce maximum sustainable yield (MSY). Target reference points are intended to meet management objectives.

3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock, and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.

4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.

5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.

6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.

7. The fishing mortality rate which generates MSY should be regarded as a minimum standard for limit reference points. For stocks which are not over-fished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to MSY, and that the biomass does not fall below a pre-defined threshold. For over-fished stocks, the biomass which would produce MSY can serve as a rebuilding target.